

**ORDINANCE NO. 2023 - 1754**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 90-61, "PAVING IN FRONT AND REAR YARDS IN H30 AND H40 DISTRICTS", BY AMENDING THE FRONT YARD PAVING ALLOWANCE FOR PROPERTIES FRONTING HARDING AVENUE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

1       **WHEREAS**, Article VIII, Section 2 of the Florida Constitution, and Chapter 166,  
2 Florida Statutes, provide municipalities with the authority to exercise any power for  
3 municipal purposes, except where prohibited by law, and to adopt ordinances in  
4 furtherance of such authority; and

5       **WHEREAS**, the Town Commission of the Town of Surfside ("Town Commission")  
6 finds it periodically necessary to amend its Code of Ordinances and Land Development  
7 Code ("Code") in order to update regulations and procedures to maintain consistency with  
8 state law, to implement municipal goals and objectives, to clarify regulations and address  
9 specific issues and needs that may arise; and

10       **WHEREAS**, Section 90-61 of the Code currently provides that front setbacks in the  
11 H30A, H30B, H30C, and H40 districts shall not be more than 50 percent paved over with  
12 any type of material that is not readily permeable by rainwater and groundwater; and

13       **WHEREAS**, residential properties on Harding Avenue are primarily zoned H30B and  
14 H30C; and

15       **WHEREAS**, curb side parking on properties located on Harding Avenue is not  
16 feasible due to the physical constraints or location of the properties on a highly traversed  
17 State Road, which presents a practical difficulty to these properties for parking and  
18 ingress and egress; and

19       **WHEREAS**, in order to allow for additional parking and address the practical difficulty,  
20 the Town Commission wishes to increase the paving allowance from 50 percent to 70  
21 percent in the front yard setback on properties located Harding Avenue; and

22           **WHEREAS**, at a regular meeting of the Town Commission held on July 11, 2023, the  
23 Town Commission directed an ordinance to increase the paving allowance to 70 percent  
24 in the front yard setbacks for properties fronting Harding Avenue; and

25           **WHEREAS**, the Town Commission held its first public hearing on August 8, 2023  
26 and, having complied with the notice requirements in the Florida Statutes, recommended  
27 approval of the proposed amendments to the Code; and

28           **WHEREAS**, the Planning and Zoning Board, serving as the local planning agency for  
29 the Town, held its hearing on the proposed amendment to the Code on August 31, 2023  
30 with due public notice and input, and recommended approval of the proposed  
31 amendments to the Code, with an amendment to allow 70 percent paving in the front yard  
32 setbacks for properties in the H30A district fronting Harding Avenue; and

33           **WHEREAS**, the Town Commission has conducted a second duly noticed public  
34 hearing on these Code amendments as required by law on September 12, 2023 and  
35 further finds the proposed changes to the Code are necessary and in the best interest of  
36 the Town.

37           **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE**  
38 **TOWN OF SURFSIDE, FLORIDA<sup>1</sup>:**

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40           **Section 1. Recitals.** The above Recitals are true and correct and are  
41 incorporated herein by this reference:

42           **Section 2. Town Code Amended.** Section 90-61. – “Paving in front and rear  
43 yards on H30 and H40 districts,” is hereby amended as follows:

44 **Sec. 90-61. Paving in front and rear yards in H30 and H40 districts.**

45           Except for properties in the H30A, H30B, and H30C Districts on Harding Avenue,  
46 Ffront setbacks yards in the H30A, H30B, H30C or H40 districts shall not be more than  
47 50 percent paved over with any type of material that is not readily permeable by rainwater  
48 and groundwater. For properties in the H30A, H30B, and H30C districts fronting Harding  
49 Avenue, front yards shall not be more than 70 percent paved over with any type of  
50 material that is not readily permeable by rainwater and groundwater. Pavers and pervious

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<sup>1</sup> Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with highlighted ~~double strikethrough~~ and double underline.

51 hard materials, including pervious concrete, shall not be utilized for the calculation of  
52 pervious area.

53 \* \* \*

54 **Section 3. Severability.** If any section, sentence, clause or phrase of this  
55 Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction,  
56 then said holding shall in no way affect the validity of the remaining portions of this  
57 Ordinance.

58 **Section 4. Inclusion in the Code.** It is the intention of the Town Commission,  
59 and it is hereby ordained that the provisions of this Ordinance shall become and made a  
60 part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may  
61 be renumbered or re-lettered to accomplish such intentions; and the word "Ordinance" may  
62 be changed to "Section" or other appropriate word.

63 **Section 5. Conflicts.** Any and all ordinances and resolutions or parts of  
64 ordinances or resolutions in conflict herewith are hereby repealed.

65 **Section 6. Effective Date.** This ordinance shall become effective upon adoption  
66 on second reading.  
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68 **PASSED** on first reading on the 8<sup>th</sup> day of August, 2023.

69 **PASSED AND ADOPTED** on second reading on the 12th day of September, 2023.

70 **First Reading:**

71 Motion by: Vice Mayor Rose

72 Second by: Commissioner Meischeid

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75 **Second Reading:**

76 Motion by: Vice Mayor Rose

77 Second by: Commissioner Landsman

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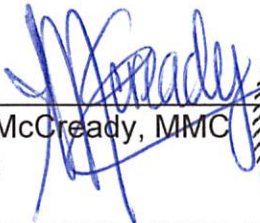
80 **FINAL VOTE ON ADOPTION**

|    |                                 |            |
|----|---------------------------------|------------|
| 81 |                                 |            |
| 82 | Commissioner Fred Landsman      | <u>Yes</u> |
| 83 | Commissioner Marianne Meischeid | <u>No</u>  |
| 84 | Commissioner Nelly Velasquez    | <u>No</u>  |
| 85 | Vice Mayor Jeffrey Rose         | <u>Yes</u> |
| 86 | Mayor Shlomo Danzinger          | <u>Yes</u> |

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Shlomo Danzinger, Mayor

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Sandra N. McCready, MMC  
Town Clerk



**APPROVED AS TO FORM AND LEGALITY FOR THE USE  
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

  
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Weiss Serota Helfman Cole & Bierman, P.L.  
Town Attorney